

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

United States of America,

Criminal No. 09-349(1)&(2) (DWF/SRN)

Plaintiff,

v.

**ORDER ADOPTING REPORT  
AND RECOMMENDATION**

Joseph L. Finney (1) and  
Mark S. Sutton (2),

Defendants.

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Robert M. Lewis, Assistant United States Attorney, United States Attorney's Office,  
counsel for Plaintiff.

Clifford J. Barnard, Esq., counsel for Defendant Joseph L. Finney.

William M. Orth, Esq., Law Office of William M. Orth, counsel for Defendant Mark S.  
Sutton.

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This matter is before the Court upon Defendant Joseph L. Finney's ("Defendant Finney") and Defendant Mark S. Sutton's ("Defendant Sutton's") objections to Magistrate Judge Susan Richard Nelson's Report and Recommendation dated April 22, 2010 (Doc. No. 59), recommending that: (1) Defendant Finney's Motion for Severance from Co-Defendant Mark Sutton and Count 3 be denied; (2) Defendant's Sutton's Motion to Suppress Statements be denied; and (3) Defendant Sutton's Motion to Sever Count 3 be denied and Defendant Mark S. Sutton's ("Defendant Sutton") objections to Magistrate Judge Franklin L. Noel's Report and Recommendation dated April 22, 2010,

recommending that Defendant Sutton's Motion to Suppress Warrant Proceeds be denied.

Defendant Sutton also objects to Magistrate Judge Franklin L. Noel's Report and Recommendation dated April 22, 2010 (Doc. No. 58), recommending that Defendant Sutton's Motion to Suppress Search Warrant Proceeds be denied.

The Government opposes the objections of the Defendants. (Doc. No. [71].)

The Court has conducted a *de novo* review of the record, including a review of the arguments and submissions of counsel, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b). The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference for purposes of Defendant Finney's and Defendant Sutton's objections.

Based upon the *de novo* review of the record and all of the arguments and submissions of the parties and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

### **ORDER**

1. Defendant Joseph L. Finney's objections (Doc. No. [70]) to Magistrate Judge Susan Richard Nelson's Report and Recommendation dated April 22, 2010, are **DENIED**.

2. Defendant Mark S. Sutton's objections (Doc. No. [68]) to Magistrate Judge Susan Richard Nelson's Report and Recommendation dated April 22, 2010, and to Magistrate Judge Franklin L. Noel's Report and Recommendation dated April 22, 2010, are **DENIED**.

3. Magistrate Judge Susan Richard Nelson's Report and Recommendation dated April 22, 2010 (Doc. No. [59]), is **ADOPTED** in all respects.

4. Magistrate Judge Franklin L. Noel's Report and Recommendation dated April 22, 2010 (Doc. No. [58]), is **ADOPTED** in all respects.

5. Defendant Joseph L. Finney's Motion for Severance from Co-Defendant Mark Sutton and Count 3 (Doc. No. [41]) is **DENIED**.

6. Defendant Mark S. Sutton's Motion to Suppress Statements (Doc. No. [30]) is **DENIED**.

7. Defendant Mark S. Sutton's Motion to Sever Count 3 (Doc. No. [36]) is **DENIED**.

8. Defendant Mark S. Sutton's Motion to Suppress Search Warrant Proceeds (Doc. No. [31]) is **DENIED**.

Dated: July 28, 2010

s/Donovan W. Frank  
DONOVAN W. FRANK  
United States District Judge